

STATE OF MISSISSIPPI  
HALEY BARBOUR  
GOVERNOR  
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

April 23, 2007

Certified Mail No. 7005 1160 0004 1776 8472

Mr. Michael F. McNair  
Acting Chief  
Regulatory Branch  
U.S. Army Corps of Engineers, Vicksburg District  
4155 Clay Street  
Vicksburg, Mississippi

Dear Mr. McNair:

Re: US Army COE, Nationwide  
Permits  
Warren County  
COE No. MVK-2007-462  
WQC No. WQC2006104

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, US Army Corps of Engineers, an applicant for a Federal License or permit to conduct the following activity:

US Army COE, Nationwide Permits: Proposed re-issuance of all existing Nationwide Permits (NWP) with some modifications, General Conditions, definitions, six new NWPs, and one new General Condition. NWPs are general permits issued on a nationwide basis to authorize minor activities which have minimal cumulative impacts on the aquatic environment. A NWP authorization is an expedited process which requires little or no paperwork. This certification is required for all NWPs that may authorize the discharge of dredged or fill material into waters of the United States. The NWPs will expire on March 18, 2012 unless otherwise modified, re-issued, or revoked. The Corps of Engineers have proposed conditions to ensure that adverse effects will be minimal. The Department of Environmental Quality, Office of Pollution Control conditions are in addition to those required by the Corps of Engineers. [MVK2007462, WQC2006104].

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The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

*NWP No. 1, Aids to Navigation*

*NWP No. 2, Structures in Artificial Canals*

*NWP No. 3, Maintenance*

*NWP No. 4, Fish and Wildlife, Harvesting, Enhancement, and Attraction Devices and Activities*

*NWP No. 5, Scientific Measurement Devices*

*NWP No. 6, Survey Activities*

*NWP No. 7, Outfall Structures and Maintenance*

*NWP No. 8, Oil and Gas Structures*

*NWP No. 9, Structures in Fleeting and Anchorage Areas*

*NWP No. 10, Mooring Buoys*

*NWP No. 11, Temporary Recreation Structures*

*NWP No. 15, U.S. Coast Guard Approved Bridges*

*NWP No. 16, Return Water From Upland Contained Disposal Areas*

*NWP No. 17, Hydropower Projects*

*NWP No. 19, Minor Dredging*

*NWP No. 20, Oil Spill Cleanup*

*NWP No. 21, Surface Coal Mining Activities*

*NWP No. 22, Removal of Vessels*

*NWP No. 23, Approval Categorical Exclusions*

*NWP No. 24, State Administered Section 404 Programs*

*NWP No. 25, Structural Damages*

*NWP No. 30, Moist Soil Management for Wildlife*

*NWP No. 32, Complete Enforcement Actions*

*NWP No. 33, Temporary Construction Access, and Dewatering*

*NWP No. 34, Cranberry Production Activities*

*NWP No. 35, Maintenance Dredging of Existing Basins*

*NWP No. 37, Emergency Watershed Protection and Rehabilitation*

*NWP No. 38, Cleanup of Hazardous and Toxic Waste*

*NWP No. 45, Repair of Uplands Damaged by Discrete Events*

*NWP No. 46, Discharges in Ditches*

*NWP No. 47, Pipeline Safety Program Designated Time Sensitive Inspections and Repairs*

*NWP No. 48, Existing Commercial Shellfish Aquaculture Activities*

*NWP No. 49, Coal Mining Activities*

*NWP No. 50, Underground Coal Mining Activities*

These above activities are authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.

3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

*NWP No. 12, Utility Line Activities*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin
2. MDEQ shall be notified of projects that have associated discharges of cuttings, drilling mud, hydrostatic testing water, or any other waste material.
3. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.
4. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
5. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

*NWP No. 13, Bank Stabilization*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi

303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- a. Justification of why the impacts cannot be avoided
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
  3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
  4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 14, Linear Transportation Crossings*, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

1. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.
2. This NWP shall not apply to natural tidal waters for personal transportation.
3. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided

303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- a. Justification of why the impacts cannot be avoided
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
  3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
  4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 14, Linear Transportation Crossings*, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

1. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.
2. This NWP shall not apply to natural tidal waters for personal transportation.
3. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided

2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 21, Surface Coal Mining Operations*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 27, Stream and Wetland Restoration Activities*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. For permitting of activities associated with mitigation banking, a Mitigation Banking Instrument approved by the Mitigation Banking Review Team shall be required.
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 28, Modifications of Existing Marinas*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. This NWP shall only apply to marinas that have an existing operating wastewater pumpout facility with appropriate signage showing its location as well as other appropriate waste disposal information.
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 29, Residential Developments*, is authorized by this certification for a period of five years from its effective date provided the project complies with the following conditions:

1. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.
2. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the activity must comply with the following:
  - a. The applicant shall provide documentation that the residence or establishment can make a connection to the an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
  - b. A no-fill buffer zone shall be permanently maintained between any construction activity and any waterbody. The minimum buffer zone for the subject parcel is defined as 15% of the parcel depth. The parcel depth is defined as the maximum length of a line extending from the Ordinary High Water Mark (OHWM) and/or top bank or High Tide Line (HTL) to the opposite property boundary. In cases of an asymmetrical parcel, the Parcel Depth will be measured as the maximum length of a line extending from OHWM or HTL to the junction of two landward property boundaries. The buffer zone shall be measured as the distance between the edge of the construction activity and the top bank of the adjacent water body or HTL.
3. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
4. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading,

- excavation, and other land disturbance activity disturbing one or more acres.
5. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
  6. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 31, Maintenance of Existing Flood Control Facilities*, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

1. Maintenance work shall not exceed the limitation or contours previously authorized by a Department of the Army Permit.
2. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 36, Boat Ramps*, is authorized by this certification for a period of five years from its effective date provided the project complies with the following conditions:

1. Boat ramp parking areas with impervious surfaces (concrete, asphalt) that have a surface area equal to or greater than one acre shall provide for storm water management. The first 0.5 inch of storm water runoff from impervious parking and road surfaces shall be treated using MDEQ approved best management practices before release. The storm water plan should be submitted upon application for coverage under a NWP and shall be forwarded to MDEQ.
2. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence

or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

3. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
4. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
5. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 39, Commercial and Institutional Developments*, is authorized by this permit for a period of five years from its effective date, provided projects comply with the following conditions:

1. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.
2. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
3. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;

- c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
4. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.
5. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
6. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 40, Agricultural Activities*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
2. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
3. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water

associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

4. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
5. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 41, Reshaping Existing Drainage Ditches*, is authorized by this certification for a period of five years from their effective date, provided projects comply with the following conditions:

1. The side slopes of banks and spoil disposal areas shall be 3:1 (horizontal:vertical) or flatter.
2. This NWP shall apply to created ditches only. No impacts to naturalized streams shall be allowed.
3. This NWP shall not authorize the modification of more than 500 linear feet of existing serviceable drainage ditches constructed in non-tidal waters.
4. Buffer zones shall be 25 feet minimum from top of drainage ditch.
5. Spoil disposal area shall be discontinuous and immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
6. Work shall be conducted from one side of the waterbody only, where possible.
7. Large trees on the work side shall be avoided where possible.
8. Banks shall be immediately seeded and stabilized upon completion of construction.
9. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

10. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
11. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 42, Recreational Activities*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.
2. For the construction or expansion of golf courses or attendant features, the applicant shall obtain approval or waiver for a Storm Water Quality Management Plan from MDEQ prior to construction.
3. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
4. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
5. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading,

- excavation, and other land disturbance activity disturbing one or more acres.
6. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
  7. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 43, Storm Water Management Facilities*, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

1. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.
2. This certification shall not authorize in-stream treatment of stormwater.
3. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.
4. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
  - a. Justification of why the impacts cannot be avoided;
  - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters;
  - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
5. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading,

April 25, 2007

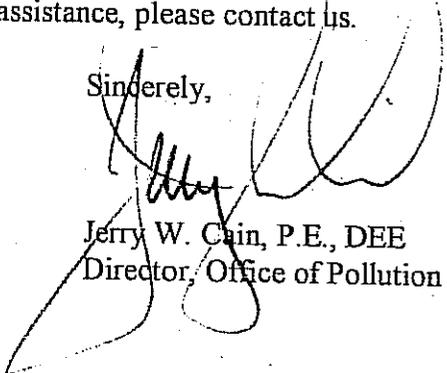
- excavation, and other land disturbance activity disturbing one or more acres.
6. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
  7. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

*NWP No. 44, Mining Activities.* This request for Water Quality Certification for this permit is hereby denied.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If we can be of further assistance, please contact us.

Sincerely,



Jerry W. Cain, P.E., DEE  
Director, Office of Pollution Control

JWC: fw

cc: U.S. Army Corps of Engineers, Mobile District  
Attn: Ms. Carol L. Bernstein, Acting Regulatory Division Chief  
U.S. Army Corps of Engineers, Memphis District  
Attn: Mr. Larry D. Watson, Regulatory Branch Chief  
U.S. Army Corps of Engineers, Nashville District  
Attn: Mr. Brad Bishop, Eastern Regulatory Section Chief  
Mr. Jan Boyd, Department of Marine Resources  
Ms. Kathy Lunceford, U.S. Fish and Wildlife Service  
Mr. Tom Welborn, Environmental Protection Agency  
Ms. Janet Riddell, Office of Budget & Fund Management